

## CHARTER REVIEW COMMISSION MINUTES

January 3, 2013

The Charter Review Commission met at 5:30 p.m. in the Municipal Building Conference Room on the 3rd day of January, 2013, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT:

Ms. Jane Abraham  
Mr. Trey Bates  
Mr. Doug Cubberley, Vice-Chairman  
Ms. Carol Dillingham  
Mr. Harold Heiple, Chairman  
Ms. Samantha Kahoe  
Mr. Ken McBride  
Mr. Kevin Pipes  
Mr. Barry Roberts  
Mr. Richard Stawicki  
Mr. Bob Thompson

ABSENT:

Mr. Thad Balkman  
Mr. Hal Ezzell

STAFF PRESENT:

Ms. Brenda Hall, City Clerk  
Ms. Kathryn Walker, Assistant City Attorney

Item 1, being:

### BRIEF OVERVIEW OF OPEN MEETINGS ACT.

Ms. Kathryn Walker, Assistant City Attorney, provided an overview of the State of Oklahoma Open Meetings Act. She said the cornerstone of the Open Meetings Act is that meetings should be open to the public so the public can have the opportunity to be informed of what is going on within their government. The Open Meetings Act applies to all public bodies and City of Norman's Resolution No. R-1112-9 clarifies that all City committees, sub-committees, and ad hoc committees shall follow the Open Meetings Act. She cautioned that communications to a majority of members by e-mail, text messaging, or social media can be construed as an improper meeting.

Items submitted for the record

1. PowerPoint presentation entitled, "Open Meeting Act, Oklahoma Statutes, Title 25, Sections 301-315," Charter Review Commission, dated January 3, 2013

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Item 2, being:

OVERVIEW OF RESOLUTION NO. R-1112-109 ESTABLISHING THE CHARTER REVIEW COMMISSION.

Ms. Walker highlighted Resolution No. R-1119-109 establishing the Charter Review Commission (CRC). She said the resolution sets forth the areas of targeted review; appointment, composition, and timetable of the Commission; duties of Commission members; removal of Commission members; and reporting and recommendations by the Commission.

Ms. Walker said the CRC will review the targeted sections of the Charter and consider whether those sections need to be amended to meet the City's current and/or future needs; educate the community about any proposed amendments, the Charter, and the review process during one public meeting per quarter; perform other duties as Council directs; and create policies/procedures for CRC as guidelines for function of the Commission including attendance, receiving public testimony, structure or format of meetings, and frequency of public hearings.

Ms. Walker said all meetings will be open to the public; minutes will be made available to Council; a public hearing will be held at least once a quarter; CRC can consult with various groups/experts if interested; quarterly reports will be submitted to Council at a Study Session; final report recommendations must be approved by a majority vote of the Commission prior to being forwarded to Council; and the final report, upon completion, will be submitted to Council in a special meeting where Council will vote on each recommendation.

Member Dillingham asked if the Commission needed to discuss establishing the process for how CRC will function and whether or not the Commission wants to receive testimony prior to evaluating a section of the Charter. She said she would like an orderly manner of evaluating each section such as determining if there is a perceived problem, what is the problem, who does the Commission need to talk to in order to solve the problem, and determine how to evaluate possibilities for resolution of the problem. Member Bates felt it would be helpful to have background information ahead of the meeting for review purposes.

Items submitted for the record

1. PowerPoint presentation entitled, "Resolution No. R-1112-109 Establishing the Charter Review Commission," dated January 3, 2013

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Item 3, being:

DISCUSSION OF ARTICLE II, SECTION 1, OF THE CITY CHARTER TO CONSIDER VERBIAGE FROM "COMPENSATION" TO "STIPEND" IN REGARDS TO COMPENSATION OF CITY COUNCIL MEMBERS.

Member Dillingham said when she served on Council, compensation of City Council came up numerous times and opinions ranged from changing to a strong Mayor form of government to no change. She said because there were such diverse opinions, Council believed this was something a CRC should review. She said Council had wanted to know what options exist, how other cities with City Manager/City Council form of government handle Council compensation, and the pros and cons of Council being a volunteer position.

Item 2, continued:

She said Councilmembers put a lot of time and effort into a position that pays a maximum of \$100 per month. Chairman Heiple said the CRC is charged with deciding if “compensation” needs to be changed to “stipend” and Member Dillingham is talking about a broader discussion. Member Stawicki felt most citizens have not read the Charter and would not know the difference between compensation and stipend so nothing would be accomplished by changing the language. Member Pipes said people run for Council to serve the public, not for income reasons, but there should be some type of reimbursement for Council related expenditures such as cell phone charges or travel expenses and Member Thompson agreed.

Ms. Walker said the directive to look at changing compensation to stipend came about because of minimum wage requirements, although there is an exemption for public officials. Mr. Doug Cubberley said the directive is to review language and not the entire provision; however, if CRC wants to do that, they should get permission from Council first. He said in 2006, the Charter Review AdHoc Committee recommended raising Council’s compensation, but the City was considering employee lay-offs and Council felt asking voters to raise Council’s compensation would be inappropriate.

Chairman Heiple said he started a list of topics outside of the targeted areas of review that he wants to ask Council’s permission to discuss and raising Council’s compensation could be added to that list.

Member Bates said it would be helpful to know Council’s intent for wanting discussion on the targeted areas prior to CRC review. He said any research Staff has done would be helpful as well.

Member Cubberley suggested asking Council’s permission to review Article II, Section 1, in its entirety rather than limiting discussion to one topic and Chairman Heiple said he would add that to the list for Council’s consideration.

Member Roberts moved to recommend to City Council that the word stipend in Article II, Section 1, be substituted for the word compensation in the language as now written, which motion was duly seconded by Member Dillingham;

Items submitted for the record

1. PowerPoint presentation entitled, “Resolution No. R-1112-109 establishing the Charter Review Commission, January 3, 2013”

and the question being upon recommending to City Council that the word stipend in Article II, Section 1, be substituted for the word compensation in the language as now written, a vote was taken with the following result:

YEAS: Members Abraham, Bates, Cubberley, Dillingham, Kahoe, McBride, Pipes, Roberts, Stawicki, Thompson, Chairman Heiple

NAYES: None

Chairman Heiple declared the motion carried and a recommendation to City Council that the word stipend in Article II, Section 1, be substituted for the word compensation in the language as now written was approved.

Item 4, being:

DISCUSSION OF ARTICLE III, SECTION 1, OF THE CITY CHARTER TO CONSIDER SIMPLIFYING THE PROCESS OF REMOVAL OF THE CITY MANAGER.

Ms. Walker highlighted the current process for City Manager removal and said in 2005, the Charter Review AdHoc Committee recommended a proposed amendment be considered by voters; however, when the ordinance came forward for Council's vote, it was postponed indefinitely.

Ms. Walker highlighted the National Civic League's (NCL) model Charter, 8th Edition, City Manager removal language. She said some cities do not have specific language in Charter or Code, but some have language that states, "City Manager serves at the pleasure of City Council." She said other language reviewed indicates removal can be made at any time with a majority vote of membership (not just quorum) without specific language and public hearing; removal can be made at any time by majority vote of membership with specific language about notice and public hearing; and removal can be made for cause with due process considerations acknowledged but not specified.

Chairman Heiple suggested alternative language for removal with cause and removal without cause. He felt the current procedure should be restated as it raises a multitude of undesirable scenarios. He said in light of today's multi-year contracts; the Open Meetings Act; the fact that Council only meets in regular session on the second and fourth Tuesday each month; and the laws regarding notice and procedure when a person is entitled to due process he believed the third, fourth and fifth sentences of Article III, Section 1, should be replaced.

Ms. Dillingham suggested researching 10th Circuit Court cases for Charter cities. She wants a fair process, but if a problem arises the contract could be terminated.

Member Thompson asked if the City Manager's contract was renewed annually or if it is a multi-year contract and Ms. Brenda Hall, City Clerk, said the contract requires an annual review where Council can amend the contract if they so desire.

Chairman Heiple suggested correlating language in the contract with language in this section and Ms. Walker said some Charter provisions reference the contract in the removal language.

Member McBride said it seems the City would want the City Manager to serve at the pleasure of the Council subject to the terms of the contract, if any. Member Cubberley said if there is no contract, the City Manager is subject to conditions of every other City employee so there would have to be a contract to specify something different than cause for removal.

Member Dillingham said she would like some review on employment law and what other cities are doing. She said because employment at will has such shifting ground in Oklahoma she would like information on the status of "employment at will" in Oklahoma.

Chairman Heiple asked if CRC wanted to discuss removal with cause and everyone agreed they did not want to pursue that.

Items submitted for the record

1. PowerPoint presentation entitled, "Targeted Review No. 1 – Council Compensation and Targeted Review No. 2 – City Manager Removal," dated January 3, 2013

Item 5, being:

MISCELLANEOUS DISCUSSION.

Chairman Heiple suggested placing each topic on the agendas so CRC can talk about any of them at any time. He said CRC will develop a list of additional sections to consider with Council's permission once the targeted areas have been completed. He said, currently, the list consists of reviewing compensation in Article II, Section 1, and Article II, Section 22, Vacancies in Office.

Member Cubberley suggested members send questions or topics they would like to address at the meetings to Ms. Walker or Ms. Hall.

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Item 6, being:

ADJOURNMENT.

The meeting was adjourned at 6:35 p.m.